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SENATE BILL 734

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Phil A. Griego

AN ACT

RELATING TO GAME AND FISH; AMENDING SECTIONS OF THE NMSA 1978 DEALING WITH GAME DEPREDATION PROGRAMS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 17-2-7.2 NMSA 1978 (being Laws 1997, Chapter 224, Section 3) is amended to read:

"17-2-7.2. LANDOWNER TAKING--CONDITIONS--DEPARTMENT RESPONSIBILITIES. --

A. A landowner or lessee, or employee of either, may take or kill an animal on private land, in which they have an ownership or leasehold interest, including game animals and other quadrupeds, game birds and fowl, that presents an immediate threat to human life or an immediate threat of damage to property, including crops; provided, however, that the taking or killing is reported to the department [~~of game and~~

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1 ~~fish~~] within twenty-four hours and before the removal of the  
2 carcass of the animal killed, in accordance with regulations  
3 adopted by the commission; and provided further, however, that  
4 a landowner who accepts more than one permit that allows the  
5 harvest of a bull or buck of the same species that is causing  
6 the property damage may not take or kill an animal pursuant to  
7 this section.

8 B. A landowner or lessee, or employee of either,  
9 may take or kill animals on private land, in which they have an  
10 ownership or leasehold interest, including game animals and  
11 other quadrupeds, game birds and fowl, that present a threat to  
12 human life or damage to property, including crops, according to  
13 regulations adopted by the commission. The regulations shall:

14 (1) provide a method for filing a complaint to  
15 the department by the landowner or lessee, or employee of  
16 either of them, of the existence of a depredation problem;

17 (2) provide for various departmental  
18 interventions, depending upon the type of animal and  
19 depredation;

20 (3) require the department to offer at least  
21 three different interventions, if practical;

22 (4) require the department to respond to the  
23 initial and any subsequent complaints within ten days with an  
24 intervention response to the complaint and to carry out the  
25 intervention, if agreed upon between the department and the

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1 landowner, within five days of that agreement;

2 (5) permit the landowner or lessee to reject  
3 ~~[for good cause]~~ the interventions offered by the department if  
4 the solution offered would constitute the taking or permanent  
5 damage of private property without just compensation; and

6 ~~[(6) require a landowner or lessee to~~  
7 ~~demonstrate that the property depredation is greater in value~~  
8 ~~than the value of any wildlife-related income or fee collected~~  
9 ~~by the landowner or lessee for permission to take or kill an~~  
10 ~~animal of the same species on the private property or portion~~  
11 ~~of the private property identified in the complaint as the~~  
12 ~~location where the depredation occurred; and~~

13 ~~(7)]~~ (6) permit the landowner, lessee or  
14 employee, when interventions by the department have not been  
15 successful and after one year from the date of the filing of  
16 the initial complaint, to kill or take an animal believed  
17 responsible for property depredation.

18 C. For purposes of this section:

19 (1) "commission" means the state game  
20 commi ssi on;

21 (2) "department" means the department of game  
22 and fish; and

23 (3) "intervention" means a solution proposed  
24 by the department to eliminate the depredation."

25 Section 2. Section 17-3-13.4 NMSA 1978 (being Laws 2001,

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1 Chapter 213, Section 2) is amended to read:

2 "17-3-13.4. BIG GAME DEPREDATION DAMAGE FUND--CREATION--  
3 EXPENDITURE.--

4 A. The "big game depredation damage fund" is  
5 created in the state treasury. The fund consists of  
6 appropriations made to the fund, revenues received by the  
7 department of game and fish from the sale of big game  
8 depredation damage stamps and earnings from the investment of  
9 the fund. The fund shall be administered by the department and  
10 money in the fund is appropriated to the department to carry  
11 out the provisions of Subsection B of this section. Payments  
12 from the fund shall be by warrant of the secretary of finance  
13 and administration upon vouchers signed by the director of the  
14 department or his authorized representative. Balances in the  
15 fund shall not revert to any other fund.

16 B. The department of game and fish shall, by rule,  
17 establish a program to correct damage to [~~federal~~] state or  
18 private land caused by big game and to prevent such damage in  
19 the future. Pursuant to rules adopted by the department,  
20 expenditures from the big game depredation damage fund shall be  
21 made by the department to carry out the established program;  
22 provided that money in the fund shall not be expended for any  
23 administrative costs."

24 Section 3. Section 17-3-14.2 NMSA 1978 (being Laws 1998,  
25 Chapter 12, Section 1) is amended to read:

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1 "17-3-14.2. LANDOWNER PERMITS--MANAGEMENT OF CERTAIN BIG  
2 GAME SPECIES.--The director of the department of game and fish  
3 may issue landowner permits for the lawful taking of elk,  
4 antelope, oryx and deer. The permits may be issued when, in  
5 the determination of the director, they are necessary to  
6 effectively reduce conflicts between humans and wildlife and  
7 provide sport-hunting opportunities in accordance with  
8 regulations of the state game commission. Permits issued for  
9 elk, antelope and deer pursuant to this section shall only be  
10 issued for females or immature animals of the species, unless  
11 evidence is provided that a male animal is the cause of the  
12 damage. "

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